

SECOND REGULAR SESSION

[PERFECTED WITH PERFECTING AMENDMENT]

HOUSE BILL NO. 1684

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FITZWATER (Sponsor), FRAKER, PHILLIPS, COOKSON,
MILLER, ROWLAND, REIBOLDT, LANT, FRANKLIN, ROSS, WALKER AND JUSTUS (Co-sponsors).

5582H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.305, 135.700, 135.710, and 137.010, RSMo, and to enact in lieu thereof
four new sections relating to a tax credits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 135.305, 135.700, 135.710, and 137.010, RSMo, is repealed and
2 four new sections enacted in lieu thereof, to be known as sections 135.305, 135.700, 135.710,
3 and 137.010, to read as follows:

135.305. A Missouri wood energy producer shall be eligible for a tax credit on taxes
2 otherwise due under chapter 143, except sections 143.191 to 143.261, as a production incentive
3 to produce processed wood products in a qualified wood-producing facility using Missouri forest
4 product residue. The tax credit to the wood energy producer shall be five dollars per ton of
5 processed material. The credit may be claimed for a period of five years and is to be a tax credit
6 against the tax otherwise due. No new tax credits, provided for under sections 135.300 to
7 135.311, shall be authorized after June 30, [2013] **2020. In no event shall the aggregate**
8 **amount of all tax credits allowed under sections 135.300 to 135.311 exceed three million**
9 **dollars in any given fiscal year.**

135.700. **1.** For all tax years beginning on or after January 1, 1999, **but ending on or**
2 **before December 31, 2014**, a grape grower or wine producer shall be allowed a tax credit
3 against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating
4 to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to
5 twenty-five percent of the purchase price of all new equipment and materials used directly in the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 growing of grapes or the production of wine in the state. Each grower or producer shall apply
7 to the department of economic development and specify the total amount of such new equipment
8 and materials purchased during the calendar year. The department of economic development
9 shall certify to the department of revenue the amount of such tax credit to which a grape grower
10 or wine producer is entitled pursuant to this section. The provisions of this section
11 notwithstanding, a grower or producer may only apply for and receive the credit authorized by
12 this section for five tax periods.

13 **2. For all tax years beginning on or after January 1, 2015, a grape grower, wine**
14 **producer, distillery, or microbrewery as defined in section 311.195, shall be allowed a tax**
15 **credit against the state tax liability incurred under chapter 143, exclusive of the provisions**
16 **relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount**
17 **equal to twenty-five percent of the purchase price of all new and used equipment and**
18 **materials used directly in the growing of grapes, production of wine, distilling of spirits,**
19 **or brewing of beer in the state, subject to the limitations provided in this section. Each**
20 **grower, producer, distiller, or brewer shall apply to the department of economic**
21 **development and specify the total amount of such new and used equipment and materials**
22 **purchased during the calendar year. The department of economic development shall**
23 **certify to the department of revenue the amount of such tax credit to which a grape**
24 **grower, wine producer, distillery, or microbrewery is entitled under this section. The**
25 **provisions of this section notwithstanding, a grower, producer, distiller, or brewer may**
26 **apply for and receive the credit authorized by this section for no more than five consecutive**
27 **tax periods with a total maximum of ten tax periods.**

28 **3. For the tax years beginning on or after January 1, 2015, the total amount of tax**
29 **credits authorized under this section shall not exceed four million dollars. The amount of**
30 **tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the**
31 **taxable year for which the credit is claimed, and such taxpayer shall not be allowed to**
32 **claim a tax credit in excess of one hundred thousand dollars per taxable year.**

33 **4. Of the four million dollars of tax credits authorized under this section, no more**
34 **than one million dollars shall go to each of the groups of taxpayers classifying as growers,**
35 **producers, distillers, and brewers except as provided in this subsection. After the**
36 **conclusion of the third quarter of a taxable year, the remaining balance of tax credits**
37 **authorized shall be issued to any qualified applicant, regardless of whether a grower,**
38 **producer, distiller, or brewer, on a first-come, first-served filing basis.**

135.710. 1. As used in this section, the following terms mean:

2 (1) "Alternative fuel vehicle refueling property", property in this state owned by
3 an eligible applicant and used for storing alternative fuels and for dispensing such

4 **alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or**
5 **private citizens;**

6 (2) "Alternative fuels", any motor fuel at least seventy percent of the volume of which
7 consists of one or more of the following:

8 (a) Ethanol;

9 (b) Natural gas;

10 (c) Compressed natural gas, **or CNG;**

11 (d) Liquified natural gas, **or LNG;**

12 (e) Liquified petroleum gas, **or LP gas, propane, or autogas;**

13 (f) Any mixture of biodiesel and diesel fuel, without regard to any use of kerosene;

14 (g) Hydrogen;

15 [(2)] (3) "Department", the department of [natural resources] **economic development;**

16 (4) **"Electric vehicle recharging property", property in this state owned by an**
17 **eligible applicant and used for recharging electric motor vehicles owned by such eligible**
18 **applicant or private citizens;**

19 [(3)] (5) "Eligible applicant", a business entity **or private citizen** that is the owner of [a
20 qualified] **an electric vehicle recharging property or an** alternative fuel vehicle refueling
21 property;

22 (6) **"Qualified Missouri contractor", a contractor whose principal place of business**
23 **is located in Missouri and has been located in Missouri for a period of not less than five**
24 **years;**

25 [(4)] (7) "Qualified [alternative fuel vehicle refueling] property", [property in this state
26 owned by an eligible applicant and used for storing alternative fuels and for dispensing such
27 alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or private
28 citizens] **an electric vehicle recharging property or an alternative fuel vehicle refueling**
29 **property** which, if constructed after August 28, [2008] **2014**, was constructed with at least fifty-
30 one percent of the costs being paid to qualified Missouri contractors for the:

31 (a) Fabrication of premanufactured equipment or process piping used in the construction
32 of such facility;

33 (b) Construction of such facility; and

34 (c) General maintenance of such facility during the time period in which such facility
35 receives any tax credit under this section.

36

37 If no qualified Missouri contractor is located within seventy-five miles of the property, the
38 requirement that fifty-one percent of the costs shall be paid to qualified Missouri contractors
39 shall not apply[;

40 (5) "Qualified Missouri contractor", a contractor whose principal place of business is
41 located in Missouri and has been located in Missouri for a period of not less than five years].

42 2. For all tax years beginning on or after January 1, [2009] **2015**, but before January 1,
43 [2012] **2018**, any eligible applicant who installs and operates a qualified [alternative fuel vehicle
44 refueling] property shall be allowed a credit against the tax otherwise due under chapter 143,
45 excluding withholding tax imposed by sections 143.191 to 143.265, or due under chapter 147
46 or chapter 148 for any tax year in which the applicant is constructing the [refueling] **qualified**
47 property. The credit allowed in this section per **eligible applicant who is a private citizen shall**
48 **not exceed fifteen hundred dollars or per** eligible applicant **that is a business entity** shall not
49 exceed the lesser of twenty thousand dollars or twenty percent of the total costs directly
50 associated with the purchase and installation of any alternative fuel storage and dispensing
51 equipment **or any recharging equipment** on any qualified [alternative fuel vehicle refueling]
52 property, which shall not include the following:

53 (1) Costs associated with the purchase of land upon which to place a qualified
54 [alternative fuel vehicle refueling] property;

55 (2) Costs associated with the purchase of an existing qualified [alternative fuel vehicle
56 refueling] property; or

57 (3) Costs for the construction or purchase of any structure.

58 3. Tax credits allowed by this section shall be claimed by the eligible applicant at the
59 time such applicant files a return for the tax year in which the storage and dispensing **or**
60 **recharging** facilities were placed in service at a qualified [alternative fuel vehicle refueling]
61 property, and shall be applied against the income tax liability imposed by chapter 143, chapter
62 147, or chapter 148 after all other credits provided by law have been applied. The cumulative
63 amount of tax credits which may be claimed by eligible applicants claiming all credits authorized
64 in this section shall not exceed [the following amounts:

65 (1) In taxable year 2009, three million dollars;

66 (2) In taxable year 2010, two million dollars; and

67 (3) In taxable year 2011,] one million dollars **in any calendar year**.

68 4. If the amount of the tax credit exceeds the eligible applicant's tax liability, the
69 difference shall not be refundable. Any amount of credit that an eligible applicant is prohibited
70 by this section from claiming in a taxable year may be carried forward to any of such applicant's
71 two subsequent taxable years. Tax credits allowed under this section may be assigned,
72 transferred, sold, or otherwise conveyed.

73 5. [An alternative fuel vehicle refueling] **Any qualified** property, for which an eligible
74 applicant receives tax credits under this section, which ceases to sell alternative fuel **or recharge**
75 **electric vehicles** shall cause the forfeiture of such eligible applicant's tax credits provided under

76 this section for the taxable year in which the [alternative fuel vehicle refueling] **qualified**
77 property ceased to sell alternative fuel **or recharge electric vehicles** and for future taxable years
78 with no recapture of tax credits obtained by an eligible applicant with respect to such applicant's
79 tax years which ended before the sale of alternative fuel **or recharging of electric vehicles**
80 ceased.

81 6. The director of revenue shall establish the procedure by which the tax credits in this
82 section may be claimed, and shall establish a procedure by which the cumulative amount of tax
83 credits is apportioned equally among all eligible applicants claiming the credit. To the maximum
84 extent possible, the director of revenue shall establish the procedure described in this subsection
85 in such a manner as to ensure that eligible applicants can claim all the tax credits possible up to
86 the cumulative amount of tax credits available for the taxable year. No eligible applicant
87 claiming a tax credit under this section shall be liable for any interest or penalty for filing a tax
88 return after the date fixed for filing such return as a result of the apportionment procedure under
89 this subsection.

90 7. Any eligible applicant desiring to claim a tax credit under this section shall submit the
91 appropriate application for such credit with the department. The application for a tax credit
92 under this section shall include any information required by the department. The department
93 shall review the applications and certify to the department of revenue each eligible applicant that
94 qualifies for the tax credit.

95 8. The department and the department of revenue may promulgate rules to implement
96 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
97 536.010, that is created under the authority delegated in this section shall become effective only
98 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
99 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
100 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
101 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
102 and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

103 9. [Pursuant to] **The provisions of** section 23.253 of the Missouri sunset act
104 **notwithstanding:**

105 (1) The provisions of the new program authorized under this section shall automatically
106 sunset [six] **three** years after [August 28, 2008] **December 31, 2014**, unless reauthorized by an
107 act of the general assembly; and

108 (2) If such program is reauthorized, the program authorized under this section shall
109 automatically sunset [twelve] **six** years after the effective date of the reauthorization of this
110 section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset; **and**

(4) The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized under this section expires or a taxpayer's ability to redeem such tax credits.

137.010. The following words, terms and phrases when used in laws governing taxation and revenue in the state of Missouri shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) "Grain and other agricultural crops in an unmanufactured condition" shall mean grains and feeds including, but not limited to, soybeans, cow peas, wheat, corn, oats, barley, kafir, rye, flax, grain sorghums, cotton, and such other products as are usually stored in grain and other elevators and on farms; but excluding such grains and other agricultural crops after being processed into products of such processing, when packaged or sacked. The term "processing" shall not include hulling, cleaning, drying, grating, or polishing;

(2) "Hydroelectric power generating equipment", very-low-head turbine generators with a nameplate generating capacity of at least four hundred kilowatts but not more than six hundred kilowatts and machinery and equipment used directly in the production, generation, conversion, storage, or conveyance of hydroelectric power to land-based devices and appurtenances used in the transmission of electrical energy;

(3) "Intangible personal property", for the purpose of taxation, shall include all property other than real property and tangible personal property, as defined by this section;

(4) "Real property" includes land itself, whether laid out in town lots or otherwise, and all growing crops, buildings, structures, improvements and fixtures of whatever kind thereon, hydroelectric power generating equipment, the installed poles used in the transmission or reception of electrical energy, audio signals, video signals or similar purposes, provided the owner of such installed poles is also an owner of a fee simple interest, possessor of an easement, holder of a license or franchise, or is the beneficiary of a right-of-way dedicated for public utility purposes for the underlying land; attached wires, transformers, amplifiers, substations, and other such devices and appurtenances used in the transmission or reception of electrical energy, audio signals, video signals or similar purposes when owned by the owner of the installed poles, otherwise such items are considered personal property; and stationary property used for transportation **or storage** of liquid and gaseous products, including, but not limited to, petroleum products, natural gas, **propane or LP gas equipment**, water, and sewage;

(5) "Tangible personal property" includes every tangible thing being the subject of ownership or part ownership whether animate or inanimate, other than money, and not forming

31 part or parcel of real property as herein defined, but does not include household goods, furniture,
32 wearing apparel and articles of personal use and adornment, as defined by the state tax
33 commission, owned and used by a person in his home or dwelling place.

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